

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No. 11356 of 2004

Between:

1 M/s. Adapa Gollamma Educational Society, rep. by its President

Adapa Govindaraju, 9-1, Pepakayalapalem, Karapa Mandal,

E.G.District.

2 Adpa Govindaraju S/o. Adapa Venkataraoa,
9-3, Pepakayalaspalem, Karapa Mandal, E.G.Dist.

3 Adapa Venkateswara Rao S/o. Adapa Venkata Rao
9-3, Pepakayalaspalem, Karapa Mandal, E.G.Dist.

4 K. Saiprakash S/o. Srinivasa Rao
529, LIG 29, APIIC Colony, Ramanayyapeta, Kakinada.

..... PETITIONERS

AND

1 Bank of India, Devalayam Street, Kakinada,

rep. by its the Branch Manager.

2 The Zonal Manager, Bank of India, Viskahapatnam.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction particularly one in the nature of a Writ of Mandamus declaring the action of the respondents in initiating steps towards recovery of the dues payable by the petitioners under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 against the properties belonging to the 3rd and 4th petitioner as illegal without jurisdiction and malafide and consequently direct the respondents not to conduct sale/confirm the sale of their properties i.e., Ac. 2.50 gts of agricultural land in Sy.

No. 258/1 at Kandregula village, East Godavari District and Building bearing D.No.10-19,MIG, APIIC Ltd., Housing Complex, Ramanayyapeta, near Kakinada.

Counsel for the Petitioners : Mr. M.KRISHNA MOHAN RAO

Counsel for the Respondents : Mr. S.SURYA PRAKASA RAO, STANDING COUNSEL FOR BANK OF INDIA

The Court made the following :

ORDER:

First petitioner is a society registered under the Societies Registration Act, 1860, and petitioners 2 to 4 are its office bearers. The society has availed loan in September, 1999 for establishment of educational institutions in the name and style of 'Millennium Public School'. As there was default, the respondent – bank initiated action under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SERFAESI Act, for brevity) demanding first petitioner to pay outstanding amount of Rs.15,74,521/- (Rupees fifteen lakhs seventy four thousand and five hundred and twenty one only). The petitioners did not comply with the notice and therefore the respondent - bank on 13.1.2004 served an order under Section 13(4) of the SERFAESI Act and took possession of the properties. Contending that Section 31(i) excludes agricultural property from the provisions of the of the SERFAESI Act petitioners invoked the jurisdiction of this Court seeking invalidation of the action of the respondent – bank.

After receiving notice, respondent bank appears through its Counsel Sri S.Suryaprakasa Rao, who submits that after service of order under Section 13(4) of the SERFAESI Act, first petitioner society has paid entire outstanding amount and documents were also returned. The same is recorded and as nothing survives in the Writ Petition, the Writ Petition is dismissed as infructuous. No costs.

(V.V.S.RAO, J)

4.11.2004

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To

- 1 The Branch manager, Bank of India, Devalayam Street, Kakinada,
- 2 The Zonal Manager, Bank of India, Viskahapatnam.
3. 2CD copies